CITY OF VANCOUVER.
PLANNING DEPARTMENT.

CITY OF VANCOUVER
$ 1.00
PLANNING DEPAR...

REPORTS TO COUNCIL

SUBJECT: Consultant's Report on Development Permit Process

DATE: March 2, 1984

COMMITTEE ACTION:

On March 15, 1984, the Planning and Development Committee considered the report dated March 2, 1984, forwarding a report entitled "City of Vancouver - Review of the Development Permit Proc[illegible] February 1984", prepared by Western Management Consultants.

Mr. R. Chilton, Western Management Consultants, advised that the purpose of the review was to examine the City's development permit process and, through confidential interviews with architects, developers and others who have had significant experience with the process and with City officials and staff, identify areas of concern, strengths and weaknesses; and, based on discussions with the applicants, and advice from City officials and staff, propose improvements to the process.

A total of 32 architects and representatives of the development community were interviewed as well as members of the Planning Department, Development Permit Board, Urban Design Panel and other City officials and staff.

The focus of the review was to identify areas of concern and areas where improvements might be made and not to provide an assessment of the performance of the Planning Department or the degree to which the process is satisfying the City's requirements.

Mr. F. Bowers, City Manager, advised that Western Management Consultants were asked to review the development permit processing within the Planning Department and the Development Permit Board. Mr. Bowers prepared a summary of the report (Appendix I) outlining 15 complaints of developers/architects and suggesting three courses of action: (1) do nothing, (2) eliminate discretionary zoning, and (3) continue discretionary zoning, but with certain reforms. The summary also provided twenty suggestions from developers/architects for reforms to the process. Mr. Bowers advised that the set of suggestions is not entirely consistent, some already are being implemented and some major reforms will require considerable discussion. Mr. Bowers advised that the Consultant's report will be made public and interested organizations and individuals would be asked to comment as well as relevant City staff. All comments will be summarized in a further Manager's Report and discussed at a special evening meeting of the Committee.

The Committee discussed the question of discretionary zoning and felt it should continue but with certain reforms which may become clearer after all comments are received.

The Committee recommended

A. That the Western Management Consultants' report and the covering Manager's Report dated March 2, 1984 be distributed to interested organizations and individuals noting that the Committee favours the continuation of discretionary zoning but with certain reforms.

B. That the organizations and individuals, as well as relevant City staff, be requested to comment on the suggestions in the Consultants' report.

C. That the City Manager prepare a report summarizing all comments received and presenting several specific proposals for reform; such report to be considered at a special evening meeting of the Planning and Development Committee to which interested parties would be invited.

CITY COUNCIL ACTION:

On March 27, 1984, City Council approved the recommendations of the Planning and Development Committee.

OTHER:

SUPPORTS ITEM NO. 5
PLANNING & DEVELOPMENT
AGENDA - MARCH 15, 1984

MANAGER'S REPORT

DATE: March 2, 1984

TO: Standing Committee on Planning & Development

SUBJECT: Consultant's Report on Development Permit Process

CLASSIFICATION: RECOMMENDATION

The City Manager reports as follows:

BACKGROUND

During 1983, Western Management Consultants were retained to review the processes of handling applications for permits in the Department of Permits and Licenses. Their report on that work was received by Council on October 5, 1983. On January 19, 1984, the Finance Committee considered a Manager's report dealing with resultant changes, which are now being implemented.

Following their work on the above, Western Management were then asked to review the development permit processing within the Planning Department and the Development Permit Board. They process major developments, and conditional uses.

The consultant's report on this is now available and is attached hereto. Since the issues raised by this report involve Planning, and the City's control over development, it seems appropriate to bring this report to the Planning & Development Committee.

The report has been discussed with Mr. Roger Chilton of Western Management, first by the City Manager, and then in another meeting including the Director of Planning. However, the attached report is entirely that of Western Management.

DESCRIPTION OF THE REPORT

The report is primarily the result of interviews with thirty-two developers and/or architects who have experienced the City's development approval process. To obtain frank comments, the applicants were ensured confidentiality, and the specific names and comments are known only to the consultant.

- Complaints

  The consultant has found a definite consensus among those interviewed, with many recurrent themes. Fifteen complaints are listed by me in the attached summary. (Many of the same complaints have been made in person to me and to some Alderman.)

- Options

  Many (but not all) of the developers would like to see a simpler, faster and much more legalistic approach, with much less discretion in the hands of the City.

  On the other hand, arguments can be made (but are not found in the report) that the present discretionary system has been a strong factor in ensuring in the city high-quality development with many amenities. One option presented in the report is to do nothing.

  Between these extremes, there is a third option which retains much of the descretionary process, but with reforms to remedy some of the complaints.

...../2

- Suggested Reforms

The developers/architects have suggested twenty such reforms, listed by me in the attached summary. These suggestions are transmitted to the City by the Consultant, but are not necessarily his recommendations.

In fact, the set of suggestions is not entirely consistent. Furthermore, some of the suggestions already are being implemented. However, some major reforms will require considerable discussion:

- a radical revision of the Development Permit Board, its function and its membership;
- the delegation of some approval powers from the Board to Development Planners, one of whom would be the single contact point in the city for any given project, and would make "irrevocable decisions" throughout the process:
- lesser roles for Social Planning and for the Urban Design Panel: less emphasis on public amenities at private expense, and on subjective aesthetics and architectural detail.

RECOMMENDATIONS ON NEXT STEPS

I RECOMMEND

A) that the Consultant's report now be made public, and be distributed, with this covering report, to interested organizations and individuals;

B) that Council request comments on the suggestions in the report from these organizations and individuals, and also from relevant City staff;

C) that these comments be summarized in a Manager's report, which also should present for consideration several specific proposals for reform;

D) that these proposals be considered at a special meeting of the Planning & Development Committee, to which interested parties would be invited..

SUMMARY OF WESTERN MANAGEMENT REPORT

15 COMPLAINTS OF DEVELOPERS/ARCHITECTS

1. Uncertainty (too much discretion, policies not published).
2. Requirements change throughout the process (different actors, some misleading).
3. Lengthy process (City's statistics on this misleading; delays are costly; staff not service-oriented).
4. Director's personal tastes have too much influence (subjective; unwilling to delegate).
5. Subjective judgments on aesthetics, architectural details, often made by unqualified staff.
6. Staff is insensitive to economic realities in their requests.
7. Favouritism to certain developers and architects (applicants fearful not to offend).
8. Some requirements cannot be enforced or policed.
9. Social Planning's involvement should be reduced (amenities extracted at private expense).
10. Urban Design Panel is very subjective (doubtful calibre).
11. Urban Design Panel approval often becomes a "condition", (no longer advisory).
12. Preliminary Development Permit is an additional hurdle (requires too much detail, City increases its list of requirements).
13. Lack of co-ordination between departments (applicants confused).
14. Doubts about current process meeting City's objectives.
15. Doubts that City has legal mandate for present process.

THREE WAYS TO GO

I. Do nothing
II. Eliminate discretionary Zoning
III. Continue discretionary Zoning, but with certain reforms.

20 SUGGESTIONS FROM DEVELOPERS/ARCHITECTS ON REFORMS (Under III)

a) Reduce gap between minimum/maximum f.s.r.
b) Define f.s.r. bonusing better.
c) Define guidelines and requirements better, and spell out relaxations.
d) Define roles of individuals and bodies involved.
e) Restructure Pre-design conferences to involve decision-makers, making irreversible commitments
f) Restructure Preliminary Development Permits similarly
g) Consolidate/publish policy statements and interpretations.
h) Define Urban Design issues (not architectural detail).
i) More legalistic approach, less issues subject to negotiation.
j) Change membership of Development Permit Board (other City officials).
k) Change chairmanship of Development Permit Board (City Manager or Deputy).
l) Change role of Development Permit Board (ensuring equitable treatment).
m) Delegate specific approvals to Development Planners (as single contact points for applicants).
n) Use Development Permit Board to ratify/approve (certain?) decisions/recommendations of Development Planners, and to "audit" their decision.
o) Use Development Permit Board as arbitrator to hear appeals by applicants against the decisions of Development Planners.
p) Make Development Planners the secretariat of the Development Permit Board(?)
q) Urban Design Panel to be advisory to Development Planners, who would present proposals to the Board.
r) Social Planning to advise Development Planners on public amenities.
s) Establish a public participation process(?) before (certain?) projects are approved by Development Planners.
t) Establish a body of precedents to assist Development Planners to make equitable decisions.

Summarized by City Manager

CITY OF VANCOUVER

REVIEW OF THE DEVELOPMENT PERMIT PROCESS

February 1984

This document briefly summarizes findings from Western Management Consultants' review of the City's development permit process.

INTRODUCTION

The purpose of the review was to examine the City's development permit process and, through confidential interviews with architects, developers and others who have had significant experience with the process and with City officials and staff, identify areas of concern, strengths and weaknesses; and, based on discussions with applicants, and advice from City officials and staff, propose improvements to the process.

A total of 32 architects and representatives of the development community were interviewed. Their views are summarized in the observations and concerns described below.

Interviews were also conducted with members of the Planning Department, Development Permit Board, Urban Design Panel and other City officials and staff.

The focus of this review was to identify areas of concern and areas where improvements might be made and not to provide an assessment of the performance of the Planning Department or the degree to which the process is satisfying the City's requirements.

GENERAL OBSERVATIONS

- All persons interviewed expressed some concerns about the development permit process. The degree of concern varied but the areas of concern were generally common.

- There were no suggestions of any dishonest or improper conduct on the part of any personnel involved.

- The current Director of Planning is generally well-liked as an individual, considered to be honest and capable, and viewed as having had a positive influence on the City's urban environment.

- The two recently hired Development Planners are also viewed as knowledgeable and capable individuals.

- Most people were of the view that discretionary zoning, the development permit process and the concept of the Development Permit Board has resulted in better developments for the City.

- The Director of Planning and the City are concerned about improving the process and a number of positive initiatives have been taken, are underway or planned. These include a rationalization of guidelines to support the Development By-law, the establishment of some form of pre- design conferences between applicants and city staff, the publication of By-Law Interpretation Bulletins, the upgrading of front counter staff and service, and a generally increased sensitivity to the need for performance standards, better communications and timely responses to applicants.

COMMON CONCERNS

- The most common and significant concern of architects and developers is the degree of uncertainty in the process with respect to what the City's requirements might be, the degree to which requirements might change throughout the process, the length of time to resolve all the issues and what the City might eventually approve.

- This uncertainty makes it difficult for developers to assess the viability of development opportunities and establish development plans; architects find it difficult to advise their clients on the size and nature of development that might be approved.

- Although discretionary zoning is viewed as having had a positive influence, most people feel there is too much discretion in the system.

- Many of the guidelines pursuant to the By-laws do not give a sufficiently clear understanding of the requirements to be satisfied or explain why they need to be satisfied. Guidelines are treated as regulations subject to relaxation at the discretion of the City. To many applicants, it appears that anything is open to negotiation.

- Guidelines and requirements continue to be added making the process increasingly more complex; By-laws are supplemented with policy statements and interpretations which are not made generally available although some applicants are aware they may exist and ask for them.

- There is almost unanimous agreement that the Director of Planning has too much power. The current Director is viewed as having a pervasive influence in the process and is perceived to use the full extent of the power available. The perception of the community is that development in the City reflects the personal taste and changing moods of the current Director. The general view is that if the Director of Planning doesn't like it, a project will not get approved.

- Most people feel that the current incumbent is honest, capable, able to participate knowledgeably in discussing urban design and architectural issues and functions well as the 'City Architect'. There is concern that a new Director appointed under the current system would bring his own and perhaps quite different biasses to the job and may not be as capable as the current incumbent.

- Applicants cannot get a clear understanding of the City's requirements early in the process; many examples were cited in which applicants were misled by City staff in the initial stages of the application as to what would be required, what would be acceptable, and where relaxations would be possible, establishing expectations which were contrary to subsequent decisions of the Director of Planning and/or the Development Permit Board. Applicants also report that they are frequently exposed to "new" information later in the process.

- Development proposals are apparently approved or rejected on the basis of, among other things, aesthetics and architectural details. These are considered to be matters of taste and not perceived to be relevant to urban design considerations. References were frequently made to inexperienced

plan checkers and planners acting as architects, judging the quality of architectural design, providing advice, getting into irrelevant detail, and making decisions on issues where they were perceived to have neither the qualifications nor the mandate.

- The general view is that the system and the staff involved in the development permit process too often concentrate on detail rather than general issues.

- City staff appear to be insensitive to costs and what is achievable in the economic realities of the business world.

- A frequent complaint is the unavailability of staff due to the four day work week; complaints were also expressed about the casual attitude and lack of service orientation of staff.

- The degree of discretion and subjective judgement in the current system is perceived to result in major inequities in the treatment of applicants. The nature and extent of the City's requirements, the length of time and the ease or difficulty experienced by applicants in getting approvals varies depending upon such things as:

  - the size and reputation of the developer

  - the reputation, style and personality of the architect, his previous experience with the City and the degree to which he is able to deal effectively with the process and the decision makers

  - the approach, calibre and whim of City staff involved with the application

  - the amount of staff time available to deal with an application

  - the position that an application is placed on a meeting agenda of the Urban Design Panel or the Development Permit Board

  - the degree to which precedents have been established.

- The city frequently asks for things which they can't police or enforce when the development is completed. This is perceived as another source of inequity in the system.

- The general view is that the Social Planning Department extracts amenities in return for their vote and either should not be involved or should not play as large a role in the process.

- Applicants are concerned about alienating City staff, fearful that if they do not maintain a positive and co-operative relationship, City staff might become more difficult and demanding. Applicants observe that the easiest way to deal with the City is to adopt a submissive approach; only the most adroit and well regarded architects are able to deal successfully with the City on any other basis.

- There is a concern that the role of the Development Permit Board and the Director of Planning has expanded from ensuring By-law compliance and approving relaxations, to controlling development activity and acting as an advocate for the development of public amenities at private sector expense.

- Although many feel that the Development Permit Board has historically provided a beneficial forum, there appears to be much less public interest and participation in recent times raising some question as to whether it is still needed or whether the manner in which it operates is appropriate.

- There are mixed views regarding the value and effectiveness of the Urban Design Panel. Ostensibly an advisory body, the UDP becomes another hurdle in the process since their views and recommendations are frequently incorporated as conditions to be satisfied for permit approval. Consistency in panel decisions; the manner in which it operates; the tendency to deal with architectural rather than urban design issues; the calibre, personality and personal preferences of panel members; their ability to objectively judge the work of their peers; and the role of the Secretary to the Urban Design Panel are areas of concern to applicants. The Secretary is a member of the Planning Department who can have a significant influence in presenting applications to the Panel and in the manner in which comments and suggestions of its members are recorded.

- A number of persons interviewed attributed problems with the process to the management style of the current Director of Planning, his apparent desire to remain flexible, the perceived lack of guidance provided to Planning Department staff, an unwillingness to delegate responsibility, and a desire to avoid decisions and commitments until an application has been rigorously challenged by the process, even when the outcome may be obvious.

- The preliminary development permit process was established to reduce uncertainty and save time and frustration. Although it reduces the risk of having a permit refused, applicants find that increasingly more detail is required to get preliminary approval, that preliminary approval does not always provide a solid basis for obtaining final approval and that the total length of time to get approval is not necessarily shortened because the applicant must go through the process twice. Although the preliminary development process gives applicants a better idea of what might be acceptable to the city before a lot of detailed work is done, it is also perceived to give the City an additional opportunity to influence the development proposal and increase its list of requirements. The City is less reluctant to impose conditions to be satisfied when plans are at an early stage than if the applicant had prepared for final approval.

- It was generally felt that the amount of information required in a submission needed to be more clearly defined; in general, it was felt that demands for information and presentation material were onerous and that information requirements for the preliminary development permit approval process were growing.

- There were some observations that the departments involved did not always agree with each other or work together co-operatively. This creates confusion and frustration for applicants and gives the impression that the City does not know what it is doing or what it wants.

- The City maintains statistics on the length of time required to obtain development permit approvals. These are not consistent with the perceptions of applicants. This is partly because development permits are normally given conditional approval. The City considers this the end of the process whereas permits are not issued to applicants until all the conditions or "prior-to's" have been met to the City's satisfaction. The City's statistics also record length of time from the date the application is formally submitted, whereas applicants may begin preparing for the application and having discussions with the City before that date.

- There were questions raised as to why the City required a development permit for an outright use and why it needed to take as long to get approval for an outright as for a conditional.

- There were a number of questions raised regarding the role of the Development Permit, the Director of Planning and the Development Permit Board and how their role relates to the City's mandate and objectives.

ISSUES

The comments received from participants in this survey raise a number of questions:

- To what extent should the City have discretionary performance zoning?
- Is discretionary zoning and the current process achieving the City's objectives?
- Should discretionary zoning allow the degree of subjective judgement that is currently exercised?
- Should City staff have the degree of discretionary power they have?
- Should power be so concentrated in the Director of Planning?
- How far should the City intervene to protect the public interest from irresponsible or negligent developers?
- What is the role of City in influencing the "quality" of developments?
- Does the City have the legal mandate to do what it does?

ALTERNATIVES

There are a number of options available to the City. The appropriateness of these options depends, among other things, upon the City's objectives, the degree to which the current process achieves the City's objectives, and the degree to which the City feels the need to address the concerns expressed by developers and architects.

One alternative is to do nothing to significantly change the current situation. It is reasonable to assume that the City will continue to develop despite concerns of the development and architectural community and perceived deficiencies in the process. The overall cost/benefit impact on the public is difficult to quantify and is largely a matter of judgement. If the current situation achieves the City's objectives, this would be a legitimate course of action.

On the other hand, the city could eliminate discretionary judgement and reduce uncertainty by:

- establishing a fixed FSR for every development site
- documenting the basis for calculating FSR
- eliminating bonussing or clearly defining the conditions under which additional FSR will be allowed
- establishing and documenting site-specific urban design and development requirements

and taking whatever other steps are necessary to clearly delineate City By-laws, regulations and requirements.

It is assumed, for the purposes of discussion, that the City wishes to continue with discretionary zoning but would like to:

- reduce the level of uncertainty and frustration experienced by applicants in the development permit process
- reduce the length of time required to resolve issues and obtain final approval

- ensure applicants are treated equitably
- ensure public interest is well served, and
- ensure adequate controls exist on the exercise of discretionary power.

A number of suggestions were made to achieve improvements in these areas. In general, these involved:

- establishing a more precise definition of the conditions and requirements to be satisfied, and/or
- introducing a more efficient and effective decision making process.

In this regard, a number of people expressed the opinion that they doubted whether the current Director of Planning would support substantial changes to the process or be able to change his personal style or methods of operation.

Some of the suggestions to reduce the amount of discretion and uncertainty include:

- reducing the gap between the minimum and maximum FSR permitted
- defining FSR bonussing conditions more specifically
- defining development guidelines and requirements more completely and precisely, including the degree to which they might be relaxed, the circumstances under which they might be relaxed and the authority that may approve relaxation
- defining more clearly the role of the individuals and bodies involved in the process and the authority they have in dealing with the various types of development permit applications
- defining through pre-design conferences, site-specific requirements and constraints which could not be reversed later in the process; this would require that the decision makers be involved at the pre-design stage

- requiring that the City identify all major areas of concern and conditions that must be satisfied during the preliminary development permit process and that issues approved in the preliminary permit stage could not be reversed during the final approval process

- rationalizing, consolidating and publishing policy statements related to By-law administration and interpretation

- establishing urban design issues more precisely to reduce the attention currently given to architectural detail

- clearly identifying and reducing the number of issues that are subject to negotiation

- generally moving toward a more well-defined legalistic approach

Some of the suggestions to improve the decision making process include:

- making the Development Permit Board more impartial by adding senior officials from other departments e.g. Finance, Permits and Licences, and/or by appointing a Chairman who has a broader and more objective orientation. A logical candidate would be the City Manager or the Deputy City Manager.

- establishing the Development Permit Board as the body responsible for ensuring equitable and consistent administration of the By-laws

- establishing the role of Development Planner(s) as a Secretariat to the Development Permit Board

- having the Development Planner(s) deal with development permit applications which are currently approved by the Director of Planning as well as those applications that are referred to the Development Permit Board

- requiring that all conditional development permit applications be processed through or approved by the Development Planner(s) and ratified or approved by the Development Permit Board

- making the role of the Urban Design Panel advisory to the Development Planner(s) who would attend meetings to present proposals for advice and input from the panel
- establishing a process that allows public input to the Development Planner(s)
- delegating authority to the Development Planner(s) to interpret and administer the By-laws, negotiate with authority, make decisions, and approve or reject development permit applications using advice and input from other City departments, the Urban Design Panel and the public.

This process of delegating authority to the Development Planner(s) would provide applicants with access to a single point of contact from the beginning of the process who would also, in most cases, be the final decision maker. Analysis of proposals would be performed by plan checking support staff who would assist the Development Planner(s) by identifying issues for discussion and negotiation with the applicant. Suggestions from the Social Planning Department may or may not be included by the Development Planner(s) as requirements in their negotiations with the applicant.

A body of previous cases and precedents could be established to assist the Planner(s) in making equitable and consistent decisions. The role of the Development Permit Board would be to audit decisions of the Development Planners, to ensure that relaxations granted were legal, to approve non-compliance proposals in specific areas where they were empowered and to hear appeals by applicants against decisions made by the Development Planner(s). The Board would act as arbiter, either upholding the decision of the Development Planner(s), ruling in favour of the applicant or deciding on some compromise position.